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March 1, 2007

VIA HAND DELIVERY

The Honorable Charles L. A. Terreni
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: In Re: Petition of the Office of Regulatory Staff to Establish Dockets to Consider Implementing the Requirements of Section 1252 (Smart Metering) of the Energy Policy Act of 2005, Docket No. 2005-386-E

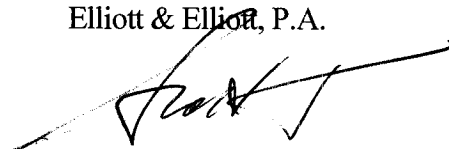
Dear Mr. Terreni:

Enclosed please find an original and ten copies of the Comments of Wal-Mart Stores East LP in the above-referenced proceeding. Also enclosed is one additional copy which we kindly request you date stamp and return to our courier. All persons on the service list have been served with these Comments.

Thank you for your assistance in this matter. If you have any questions regarding this filing, please feel free to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

Attorney for Wal-Mart Stores East LP

SE/jcl

Enclosures

cc: Official Service List (w/encl.)

ORIGINAL

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In Re: Petition of the Office of Regulatory Staff to)
Establish Dockets to Consider Implementing the)
Requirements of Section 1252 (Smart Metering))
of the Energy Policy Act of 2005)

Docket No. 2005-386-E

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PUBLIC SERVICE COMMISSION

COMMENTS OF WAL-MART STORES EAST LP

Pursuant to Rules 103-830 to 103-833 of the Rules of Practice and Procedure of the Public Service Commission of South Carolina ("Commission"), S.C. Code Regs. 103-830-103-833 (2006), and the Commission's Notice of Filing issued on January 17, 2007, in the above captioned docket, Wal-Mart Stores East LP ("Wal-Mart") hereby submits these Comments with respect to whether the Commission should adopt a policy promoting the use of advanced metering and communications technology, or "smart metering," and time-based pricing rate schedules. Wal-Mart respectfully submits that the Commission should adopt such a policy, which can produce several benefits including reduced energy costs, and enhanced energy efficiency, reliability, and sustainability, as is further discussed below.

I. BACKGROUND AND INTRODUCTION

Wal-Mart appreciates the opportunity to submit comments in this proceeding, which addresses demand response issues that are of great interest to Wal-Mart, specifically, smart meters and related time-based pricing rate schedules. The Commission has not proposed any specific policies in this docket, but Wal-Mart seeks in these Comments to generally inform the Commission and parties to this proceeding of

Wal-Mart's interest in demand responsive smart meters and time-based rates. Wal-Mart seeks to reduce costs through the implementation of various energy policies, including demand response programs. Use of smart meters and time-based rates can help reduce energy costs and can also produce many other benefits, including increased energy efficiency and reliability, and environmental benefits resulting from reduced energy consumption.

As a large commercial customer in the State of South Carolina, Wal-Mart has a substantial interest in energy cost reduction. Wal-Mart owns and operates several large retail stores and facilities in South Carolina, specifically: 51 Supercenters; 12 Discount Stores; 9 Sam's Clubs; and 2 Distribution Centers. Wal-Mart is a customer of numerous utility providers in the State, including over twenty electric utilities that constitute investor owned utilities, cooperatives, and municipalities. Wal-Mart receives electricity service from each of the three electric utilities that have sought intervenor status in the instant proceeding -- South Carolina Electric and Gas Company, Progress Energy Carolinas, Inc., and Duke Energy Company.

Wal-Mart also has an interest in achieving greater energy efficiency, reliability and sustainability, and regulatory policies that promote increased demand responsiveness can enable energy users to help reach these goals. The benefits of increased demand responsiveness made possible by smart meters and time-based pricing is also consistent with Wal-Mart's sustainability initiative, which seeks to combat the challenges presented by greenhouse gases and volatile and increasing energy prices.¹

¹ H. Lee Scott, Jr., President and Chief Executive Officer, Wal-Mart Stores, Inc., Twenty First Century Leadership, available at <http://walmartstores.com/GlobalWMStoresWeb/navigate.do?catg=463&contId=5707> (Oct. 24, 2005).

Wal-Mart has timely filed a Petition to Intervene in this proceeding,² and seeks to be an active participant. Wal-Mart has also participated extensively in rulemaking proceedings in other states involving the implementation of the smart metering and demand response provisions of the Energy Policy Act of 2005 (“EPACT”).³ Wal-Mart’s business is nationwide and it is a customer of both small and large utilities throughout the United States.

The Commission initiated the instant proceeding in response to a petition filed by the Office of Regulatory Staff (“ORS”) requesting the Commission to convene a docketed proceeding pursuant to Section 1252 of EPACT,⁴ which generally requires a state commission to conduct an investigation regarding whether to implement a smart metering and time-based rate standard in its state. However, a state commission is not required to conduct an investigation if the state has already taken certain action,⁵ and the ORS Petition only requests that the Commission solicit comments on “whether the requirements of Section 1252 are necessary and/or whether the requirements of Section 1252 have already been met.”⁶ Under EPACT, no investigation is required if (i) a state commission has already implemented the standard or a comparable standard, or (ii) held a proceeding to consider such standard, or (iii) if the state’s legislature has already voted on such a standard. Consideration by a state commission or a vote by a state legislature must have occurred within three years before EPACT was enacted, or by August 8, 2002.

² Petition to Intervene of Wal-Mart Stores, Inc., S.C. Pub. Serv. Comm’n Docket No. 2005-386-E (filed Feb. 12, 2007).

³ See Energy Policy Act of 2005, Pub. L. No. 109-58, § 1252, 119 Stat. 594, 963-67 (amending the Public Utility Regulatory Policies Act of 1978 to add a standard on time-based metering and communications).

⁴ Petition to Establish Docket to Fulfill the State Requirements of the Energy Policy Act of 2005, S.C. Pub. Serv. Comm’n Docket No. 2005-386-E (filed Dec. 12, 2005) (“ORS Petition”).

⁵ EPACT § 1252(i), 119 Stat. at 967.

⁶ ORS Petition at 3.

Wal-Mart respectfully submits that, whether or not the prior state action exemption is available to the Commission, the Commission should take the opportunity presented in this proceeding to fully address smart metering and time-based rate issues, and adopt policy promoting these important demand response programs. Wal-Mart reserves the right to further present its position and participate in any hearing that may be scheduled by the Commission during the course of this proceeding.

II. DISCUSSION

A. Utilities Should Offer Real-Time Pricing

Due to the inherent instability in electricity prices, Wal-Mart recommends that tariffs using the “fixed rate” method of pricing be supplemented with time-based pricing to send more accurate energy price signals to the consumer and create transparency in the marketplace. Although there is certainly room for different types of time-based pricing, Wal-Mart in particular recommends that pricing be offered to energy users based on Real Time Pricing (“RTP”).⁷ Under RTP, energy prices are set for a specific time period on an advance or forward basis, which may change according to the price changes in the generation spot market. RTP will give consumers the most accurate, current information and allow them to manage their load accordingly. Commodity rates should be priced on a real time basis dependent on the time of day the energy is supplied, on a dollar per kW or kWh for the specific hour.

Wal-Mart has the potential to respond to energy price signals by utilizing an hourly RTP program. Implementing such a program would give Wal-Mart the ability to

⁷ EPACT provides that the “types of time-based rate schedules that may be offered” pursuant to the proposed standard include “real-time pricing,” “critical peak pricing,” and “time-of-use pricing,” as well as customer credits under pre-established peak load reduction agreements. (Emphasis added.) See EPACT § 1252(a), 119 Stat. at 963-64.

have the most impact on load reduction at the most critical peak times, and help to relieve grid congestion and promote reliability. The price transparency, in some instances, may eliminate the need for building or utilizing an existing peaking generating plant, thereby also reducing energy costs for all consumers of the utility. Reduced utilization of fossil fuel plants, in particular, will also provide environmental benefits in the form of reduced greenhouse gas emissions.

B. Customers Should be Allowed to Use Smart Meters

Smart meters and related advanced communications technology are also needed, and help to facilitate the use of time-based pricing such as RTP. Wal-Mart recommends that customers be allowed to purchase their own meters from a supplier of their choice. By allowing customers to purchase metering devices that fit their individual needs from competitive providers, there would be opportunity for more aggressive innovation and supply. Like Wal-Mart, there are large consumers that have already invested in their own energy management systems that compliment the existing utility metering equipment, to maximize demand response and energy efficiency.

The costs of smart meters must also be addressed. Costs for smart metering should not apply to customers who already have advanced meters installed or meters that will be installed in the future, provided that those meters have capabilities that meet or exceed those planned for installation by the utility and which could interface and communicate with such planned utility advanced metering system.

C. The Commission Should Adopt Policy Promoting Time-Based Rates and Smart Meters

The Commission should adopt the necessary regulatory and policy framework to respond to the increasing desire for and support of demand response strategies, and in

recognition of the benefits that demand response can provide. Notably, the Southeastern Association of Regulatory Utility Commissioners (“SEARUC”) in 2006 issued a resolution supporting energy efficiency, including the use of smart metering devices.⁸ The SEARUC Resolution endorsed a resolution issued by the National Association of Regulatory Utility Commissioners (“NARUC”), which encouraged states to support various means of promoting energy efficiency.⁹ SEARUC stated its support of the NARUC resolution which, among other things, “encouraged state policy makers to . . . promote the use of high-efficiency consumer products, including smart metering and information control devices.”¹⁰

Wal-Mart urges the Commission to fully consider issues related to smart metering and time-based rates, including RTP. It does not appear that the prior state action exemption provided in EPACT is available to the Commission such that the Commission may avoid consideration of the smart metering and time-based rate standard.¹¹ However, whether or not such exemption may be applicable, Wal-Mart hopes that the Commission will take the opportunity presented in the instant docket to address smart metering and time-based rate issues, and adopt policy promoting these important demand response initiatives.

⁸ Southeastern Ass’n of Regulatory Util. Comm’rs, Resolution Supporting Energy Efficiency (June 18, 2006), available at http://www.searuc.org/resolutions/2006-06-18--Energy_Efficiency.pdf (“SEARUC Resolution”).

⁹ Nat’l Ass’n of Regulatory Util. Comm’rs, Resolution on Gas and Electric Energy Efficiency (July 14, 2004), available at <http://www.naruc.org/associations/1773/files/gaselectriceff0704.pdf>.

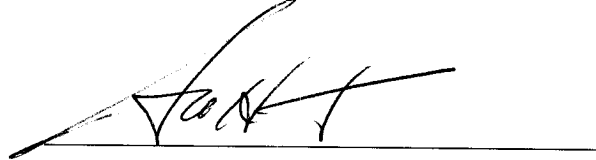
¹⁰ See SEARUC Resolution.

¹¹ See EPACT § 1252(i), 119 Stat. at 967.

III. CONCLUSION

WHEREFORE, Wal-Mart requests that the Commission: (1) accept Wal-Mart's Comments and adopt the recommendations provided herein; and (2) order such further relief as this Commission may deem just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Judith Kim', is written over a horizontal line.

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Attorneys for Wal-Mart Stores East LP

Dated: March 1, 2007

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CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that (s)he has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of the same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Petition of the Office of Regulatory Staff to Establish Dockets to Consider Implementing the Requirements of Section 1252 (Smart Metering) of the Energy Policy Act of 2005

DOCKET No. 2005-386-E

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PLEADING: COMMENTS OF WAL-MART STORES EAST LP

March 1, 2007


Jackie C. Livingston, Paralegal

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